S.B. Civil Revision Petition No.9/05
Ajit Singh Vs. Mst. Ulfutnissa Begam

Date of Order : 18/07/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. R.K. Mathur, for petitioner
Mr. Vinod Tamoliya for Mr. N.K. Maloo, for respondent

Instant revision petition has been filed by the petitioner-judgment-debtor against the order dated 12th October, 2004 whereby his application filed under O.21 R.29 CPC was rejected.

Respondent-plaintiff filed a suit u/s.6 of Specific Relief Act in relation to property situated in Ward No.4, Tonk bearing No.57 [New No.54]. The suit instituted by the respondent-plaintiff against the petitioner was allowed vide judgment & decree dated 4th October, 1996. Against the said judgment & decree, the present petitioner filed revision petition before this court, which was dismissed on 5th December, 2000. Thereafter, respondent-plaintiff filed application for execution of judgment & decree passed by the learned trial Judge. The present petitioner has filed application under O.21 R.29 CPC for stay of the proceedings, which has been rejected by the learned trial Judge vide order dated 12th October, 2004. Hence, this revision petition.

Counsel for petitioner, Shri Mathur vehemently contends that application has been rejected only on the ground that suit filed by him with regard to House No.59, which was purchased by registered sale deed, is pending in other than court where the

application for execution is pending. Counsel further contends that decree was passed in relation to House No.57 [New No.54] of which no demarcation was made in the plaint and which has also come in the judgment of learned trial Judge, but under the garb of it the respondent-plaintiff wanted possession of House No.59 which he had purchased by registered sale deed.

Counsel for respondent, on the other hand, submits that so far as application filed under O.21 R.29 is concerned, merely because the court has refused to stay the execution proceedings will not give him a cause of filing present revision petition under 115 CPC which after amendment came into force w.e.f. 1st July, 2002, is not maintainable and counsel further submits that even their application filed has also been decided by a common order wherein it has been specifically mentioned that warrant be issued in respect of possession with regard to House No.57 [New No.54] situated in Ward No.4 which is evident from site plan shown of which specific mention has been made in the plaint and so far as apprehension of the petitioner is concerned, this has been specifically mentioned that so far as House No.59 is concerned, no interference will be made.

I have considered the submissions made by the parties and with their assistance perused the material on record.

The suit was finally decreed way back in 1996 and the revision petition preferred by the petitioner raising similar like objection was dismissed by this court on 5th December, 2000 and

when the degree-holder initiated to get the decree executed, again objections were raised including interference by not handing over possession of the property of which a specific decree has been passed after adjudication of the dispute. No reasonable cause has been shown for stay of the proceedings in the application filed under O.21 R.29 CPC and apart from it, a specific reference has been made by the Executing Court in its operative part of the order where right of the petitioner with regard to House No.59 has been protected.

I do not find any illegality or material irregularity committed by the learned trial Judge in passing of the order impugned in the instant revision petition.

Consequently, the revision petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FR BOHRA